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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/791,469

03/01/2004

Mark Deem

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2103

21971 7590 12/15/2011
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650 PAGE MILL ROAD
PALO ALTO, CA 94304-1050

EXAMINER

ANDERSON, GREGORY A

ART UNIT

PAPER NUMBER

3773

MAIL DATE

DELIVERY MODE

12/15/2011

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/791,469	Applicant(s) DEEM ET AL.	
	Examiner GREGORY ANDERSON	Art Unit 3773	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 August 2011.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on ____; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 5) ☒ Claim(s) 1-8, 10-16, 18-24, 33-40 and 55-84 is/are pending in the application.
- 5a) Of the above claim(s) 74-84 is/are withdrawn from consideration.
- 6) ☐ Claim(s) ____ is/are allowed.
- 7) ☒ Claim(s) 1-8, 10-16, 18-24, 33-40 and 55-73 is/are rejected.
- 8) ☐ Claim(s) ____ is/are objected to.
- 9) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-8, 10-16, 18-24, 33-40 and 55-73 are rejected under 35 U.S.C. 103(a) as being unpatentable over Butaric et al. 6,887,268 in view of Barone 6,162,246.

Butaric et al. discloses, in at least Figs. 1-4 and Col. 9 ll. 54-56, a stent-graft device having a stent member 40 comprising self expanding or balloon-expandable material, a tubular graft member 60 coupled with the stent member, two sinusoidal leg members 11a/11b, each having a plurality of bends (Fig. 5, each leg is comprised of a plurality of bent wires) helically intertwined and a skirt graft member 30 configured to be placed in contact with the inner wall of the aortic aneurysm (Fig. 1, the members are capable of being twisted to 360 degrees of helix). Butaric et al. further discloses the stent being made from nitinol or stainless steel and being self expandable (Col. 10 ll. 29-35) or balloon expandable (Col. 9 ll. 54-56). Butaric et al. further discloses the stent comprising diamond-shaped members (Col. 16 ll. 35-38). Butaric et al. further discloses adhesive or welding connecting the graft to the stent (Col. 11 ll. 35-37). Butaric et al. further discloses a supra-renal or infra-renal stent (Col. 13 ll. 15-18).

However, Butaric et al. does not disclose the two leg members being connected to a main graft member.

Barone discloses, see Fig. 10, a stent-graft device having two leg members 34 removably coupled to a main graft member 39.

It would have been obvious to one having ordinary skill in the art at the time of the rejection to modify the device of Butaric et al. with the main graft member of Barone in order to provide a graft capable of adapting to different size and shape characteristics as taught by Barone (Col. 5 ll. 8-10).

Response to Arguments

3. Applicant's arguments filed 31 August 2011 have been fully considered but they are not persuasive. Applicant argues that the legs of Butaric et al. are not sinusoidal. Examiner disagrees: the leg of Butaric et al. comprises several wire portions as seen in Fig. 5 that can be considered sinusoidal, further the bend shown in Fig. 1 of the entire leg is considered at least partially sinusoidal in nature. Applicant further argues that the legs of Butaric et al. do not disclose a plurality of bends. Examiner disagrees: as discussed above, each leg of Butaric et al. is comprised of a plurality of bent wire portions. Applicant further argues that Butaric et al. does not teach the stent being made from self-expanding and balloon expanding material. Examiner disagrees: Butaric et al. discloses the stent may be made of self-expanding materials or be expanded via balloon as discussed above, furthermore, it is notoriously well known in the art to utilize balloon expansion even with self-expanding materials such as nitinol.

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory A Anderson whose telephone number is (571)270-3083. The examiner can normally be reached on Mon-Thurs 9:30am-3pm EST.

If attempts to reach the examiner by telephone are unsuccessful, ***please contact the examiner's supervisor, Corrine McDermott, at (571) 272-4754.*** The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

If there are any inquiries that are not being addressed by first contacting the Examiner or the Supervisor, you may send an email inquiry to

TC3700_Workgroup_D_Inquiries@uspto.gov.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/GREGORY ANDERSON/
Examiner, Art Unit 3773

/Darwin P. Erez/
Primary Examiner, Art Unit 3773